IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1858 of 1990
With
FIRST APPEAL No. 1859 of 1990

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT AND OTHERS
Versus
SADIKBHAI

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Appearance :
MR ND GOHIL, AGP for Appellants.
RULE SERVED for Respondents.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 04/07/2006

COMMON ORAL JUDGMENT

Since in both these First Appeals, common question of facts and law arises, the same are heard together and disposed of by this common judgement.

Both these appeals have been filed under Section 54 of the Land Acquisition Act read with Section 96 of the Civil Procedure Code. By filing these appeals, the State has challenged the judgement and order passed by the learned Judge of the Reference Court in Land Reference Case No.147/1986 and Land Reference Case No.148/1986. Learned trial Judge has disposed of both the Reference Cases by common judgement, therefore, both these appeals are also disposed of by this common judgement. So far as First Appeal No.1858/1990 is concerned, the State has preferred it for challenging the order of the Reference Court by which the Reference Court has granted an additional amount of Rs.3293.28 ps. with interest and solatium. So far as First Appeal No.1859/1990 is concerned, the same is filed by the State challenging the order of the Reference Court by which the Reference Court has granted additional compensation of Rs.9522/-.

On behalf of the Executive Engineer, Himmatnagar, District – Sabarkantha, a proposal was sent on 10-8-1986 for acquiring certain lands of village – Jadar, Taluka – Idar for Mangadh Approach Road. On behalf of the State, Notification under Section 4 was issued on 22-3-1984, which was followed by Notification under Section 6, dated 22-7-1984. The Land Acquisition Officer, thereafter, declared his award on 10-1-1986. The Land Acquisition Officer awarded Rs.120/- per Are for irrigated land and Rs.90/- per Are for non-irrigated land. Dissatisfied claimants, thereafter, requested the Collector to make Reference under Section 18 of the Land Acquisition Act before the District Court and accordingly, the Land Acquisition Officer made various references under Section 18 of the Act, which were numbered as Land Reference Nos.147, 148 and 149 of 1986. In all those references common evidence was led by the parties. The Reference Court considered the evidence produced on

record and has taken into account sale instances at Exh.20 and 21, by which the lands were sold on 1-12-1984 and 12-12-1984 respectively. According to the learned Judge of the Reference Court, the notification under Section 4 in the present case was issued on 22-3-1984 and, therefore, aforesaid sale instances were considered as comparable sale instances. After appreciating the evidence on record and considering the fertility and nature of the land acquired, learned Judge fixed Rs.10/- per sq.mtr. and accordingly granted additional compensation by passing the impugned judgement. So far as claimant of Land Reference Case No.147 of 1986 is concerned, Reference Court has awarded additional amount of Rs.3293.28 ps. and so far as claimants of Land Reference Case No.148 of 1986 is concerned, the Reference Court has granted Rs.9522/- as additional compensation. The State was not satisfied with the aforesaid order granting additional compensation and, hence, the State has preferred both these Appeals which are pending since 1990.

In fact, against the aforesaid common judgement passed by the Reference Court, the State has preferred three First Appeal, out of which, First Appeal Nos.1858/1990 and 1859/1990 are being disposed of by this common judgement and third appeal being First Appeal No.1860/1990 is disposed of by this Court by passing a separate order, as that appeal was abated, because the State has not taken any steps for bringing the heirs of deceased respondent of that appeal on record since 1996.

Learned trial Judge has given cogent reasons in paragraph 11, 12 and 13 of the impugned judgement for fixing the aforesaid purchase price. In the series of judgements, this Court has taken a view that if the amount involved in First Appeal is small, this Court may not entertain the appeal and the Court may not interfere with the judgement and

order passed by the Reference Court. In this connection reference is required to be made to the decision of learned Single Judge of this Court in First Appeal No.1117/2003, wherein after relying upon the judgement of the Division Bench of this Court, learned Single Judge has observed as under :

> "3. It may be noted that learned single Judge of this Court as well as a Division Bench of this Court in number of matters have dismissed appeals filed by the appellant challenging the awards of the reference courts on the ground of smallness of the amount. The Division Bench of this Court (Coram: M.H.Kadri & C.K. Buch, JJ.) in First Appeal Nos.6765 of 1999 to 6804 of 1999 vide judgment dated 29.3.2000 has considered an amount of RS.25,500/- awarded to the claimant, without considering other statutory benefits, as small amount. In the said judgment it has been observed that it is the consistent practice which is followed by various Division Benches of this Court that wherein claim involved in the Land References cases is less than Rs.35,000/-, appeal should be dismissed on the ground that it involves petty claim.
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> 4. Applying the principles laid down by the Division Bench of this Court in the judgment recorded in First Appeal Nos.6765 of 1999 to 6804 of 1999 to the facts of the present case, in the instant case, the original amount awarded to the respondent is Rs.11,425/- plus statutory benefits, which comes in all to Rs.16,223.50 and, therefore, this amount being a small amount, the appeal deserves to be dismissed on the ground of petty claim.
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> 5. For the foregoing reasons, the appeal fails and is accordingly dismissed with no order as to costs."

It is not in dispute that the claim involved in both these appeals is very small. In First Appeal No.1858/1990, the claim involved is Rs.3293.28 ps., while in First Appeal No.1859/1990, claim involved is Rs.9522. Since the claim involved in both these appeal is very small, order of the Reference Court is not required to be interfered with by this Court in these appeals. Even otherwise, learned trial Judge has given

cogent reasons for fixing the purchase price after considering the sale instances at Exh.20 and 21. In my view, aforesaid sale instances are rightly considered as comparable sale instances by the learned trial Judge.

Considering the aforesaid aspect of the matter, I do not find any substance in these appeals, hence, both these appeals are required to be dismissed. Accordingly, both these appeals are dismissed with no order as to costs.

Record and Proceedings to be sent back.

(P.B.MAJMUDAR, J.)

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